

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-40823
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LAURO JAVIER PORTILLO-VELA,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. M-98-CR-102-1
- - - - -

April 16, 1999

Before JONES, SMITH, and DUHÉ, Circuit Judges.

PER CURIAM:*

Lauro Javier Portillo-Vela appeals his sentence for illegal reentry into the United States following deportation, in violation of 8 U.S.C. § 1326(a) and (b). Portillo-Vela contends that the aggravated-felony conviction used to increase his sentence pursuant to § 1326(b) is required to be proved beyond a reasonable doubt and that the district court erred by relying on the factual findings contained in the presentence report ("PSR") when he had objected to those findings. Portillo-Vela did not

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

object to the PSR's factual findings, but instead objected that his aggravated-felony conviction must be proved beyond a reasonable doubt. The district court overruled this objection, but also found that Portillo-Vela's aggravated-felony conviction had been proved beyond a reasonable doubt.

AFFIRMED.